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OFFICE OF PETITIONS

ON PETITION

n re Application of
David Johnson
Application No. 10/678,253
Filed: October 3, 2003
Attorney Docket No. 75252-022

This is in response to the petition under 37 CFR 1.53, filed February 23, 2004, in response to the Notice of Incomplete Application mailed February 3, 2004, and requesting a filing date of October 3, 2003.

The petition under 37 CFR 1.53 is **GRANTED.**

The instant application was deposited with the USPTO on October 3, 2003. On February 3, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Application" indicating that the application was deposited without drawings and which set a two (2) month shortened statutory period for reply.

In response, on February 23, 2004, the present petition was filed, accompanied by, *inter alia*, one (1) sheet of drawings. Because the return postcard receipt date-stamped October 3, 2003 properly itemizes the contents of the application package in accordance with MPEP § 503, the Office concludes that one (1) sheet of drawings was filed on October 3, 2003 with the application papers but the drawings were misplaced in the office. The office apologizes for any inconvenience occasioned by the loss of the drawings.

It is noted that the number of pages of specification, claims, abstract and 1 sheet of drawings as itemized on petitioners' postcard receipt, was hand-written while the remainder of the postcard receipt was typed. The Office is construing the handwritten notations on the postcard receipt as having been made **before** the application papers and postcard were deposited with the USPTO on October 3, 2003. Petitioners **must** inform the Office if this is not a correct interpretation.

In view of the foregoing, the **petition to accord a filing date of October 3, 2003** will be accorded this application. The petition fee in the amount of $130.00 will be credited to petitioner's deposit account no. 16-2500 as no fee is due.

This file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of October 3, 2003 using the one (1) sheet of drawings supplied February 23, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions